IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY

WEDNESDAY, THE 7TH MARCH 2007 / 16TH PHALGUNA 1928

CRL.A.No. 697 of 2000()

ST.67/2000 of CHIEF JUDICIAL MAGISTRATE COURT, KOZHIKODE

.....

APPELLANT/COMPLAINANT:

M.KAUSU,W/O.GOVINDAN,
MAPPOYIL HOUSE, KANNUR ROAD,KOZHIKODE – 1.

BY ADV. SRI.P.V.KUNHIKRISHNAN

RESPONDENTS/ACCUSED:

M.S.MURALEEDHARAN,S/O.SIVARAJAN,
MAVILEDATH HOUSE, KOTTOOLI P.O.,KOZHIKODE.

BY

THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON 07/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J.B.KOSHY, J.

Criminal Appeal.No.697 OF 2000 (D)

Dated this the 7th day of March, 2007

JUDGMENT

This appeal is filed against the order of acquittal. Notice send to the respondent was returned stating that "left the rented house one year back and present address not known". Even though notice was returned in 2001 no steps were taken to file the correct address. Apart from the above, the Trial court found that before filing the case proper notice under Section 138(b) was not served. Ext.P6 is the statutory notice send. It was returned as follows:

> "Maviladath Muraleedharan ഇല്ലാത്തതു കൊണ്ട് തിരിച്ചയക്കുന്നു."

So the notice was not served on him. Mere sending of a notice in an address cannot be termed as service. The address given in the statutory notice was not correct and it was not served. Admittedly notice was not served and it is not proved by the

complainant by adducing evidence that accused get the above endorsement by manipulation. Since notice intimating the dishonor of the cheque was not sent in the correct address the trial court dismissed the complaint. I see no ground to interfere in the order of the court below as without serving statutory notice complaint cannot be filed. Accordingly this Criminal Appeal is dismissed.

J.B.KOSHY, JUDGE

prp

J.B.KOSHY

Criminal.Appeal.697 OF 2000 (D)

JUDGMENT

7th March, 2007